

HOUSE BILL 1863

By Farmer

AN ACT to amend Tennessee Code Annotated, Title 47,
Chapter 18 and Title 66, relative to copies of
deeds.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding
the following sections as a new part:

47-18-5601.

As used in this part, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of commerce and insurance;
- (2) "Cooperative unit" means real property that is subject to cooperative ownership, an interest in which is transferred by a proprietary lease;
- (3) "Deed" means a written instrument entitled to be recorded in the office of the register of deeds that purports to convey or transfer title to a freehold interest in any lands, tenements, or other real property in this state by way of grant or bargain and sale from the named grantor to the named grantee. "Deed" includes a written instrument that conveys a leasehold interest for ninety-nine (99) years or more, a proprietary lease of a cooperative unit, and any assignment of a proprietary lease of a cooperative unit. "Deed" does not include a written instrument providing for:
 - (A) The conveyance of any interest in a common driveway;
 - (B) Exchanges of easements or rights-of-way;

(C) Revocable licenses to use, adjust, or clear defects of, or clouds on, title;

(D) The conveyance of any interest in utility service lines, including drainage, sewer, water, electric, telephone, and similar utility service lines; or

(E) A quitclaim deed of any outstanding interest in real property;

(4) "Division" means the division of consumer affairs of the department of commerce and insurance;

(5) "Person" means a natural person, partnership, corporation, incorporated or unincorporated association, and any other legal or commercial entity however organized; and

(6) "Solicit" means to advertise or market to a person with whom the solicitor has no preexisting business relationship.

47-18-5602.

(a) Any person soliciting a fee for providing a copy of a deed shall state on the top of the document used for the solicitation, in at least 24-point type, all of the following information:

(1) The solicitation is not from a state or local government agency;

(2) No action is legally required by the person being solicited;

(3) The fee for, or the cost of, obtaining a copy of the deed from the appropriate office of the register of deeds where the deed is recorded;

(4) The information necessary to contact the appropriate office of the register of deeds where the deed is recorded; and

(5) The name and physical address of the person soliciting the fee.

(b) The document used for a solicitation under this section shall not be in a form or use deadline dates or other language that makes the document appear to be a

document issued by a state or local government agency or that appears to impose a legal duty on the person being solicited.

(c) The commissioner may promulgate rules specifying the contents and form of a solicitation document in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) A person soliciting a fee for providing a copy of a deed shall not charge a fee of more than four (4) times the fee charged by the office of the register of deeds where the deed is recorded for providing a copy of the deed.

(e) A person soliciting a fee from any property owner for providing a copy of a deed shall furnish the office of the register of deeds of each county where the solicitations are to be distributed with a copy of the document that will be used for those solicitations no less than fifteen (15) days before distributing the solicitations.

(f) This part does not apply to:

(1) A title insurance company authorized to do business in this state or the company's authorized agent;

(2) A licensed mortgage loan originator, mortgage broker, mortgage lender, mortgage servicer, or depository financial institution authorized under state and federal law to originate or service mortgage loans; or

(3) A real estate broker or affiliate broker licensed under title 62, chapter 13.

47-18-5603.

(a) The attorney general and reporter or a district attorney general, may bring an action against any person for a violation of this part. A court may issue an injunction to prevent a violation of this part, and, except as otherwise provided in subsections (c) and

(d), may impose a civil penalty not to exceed two thousand five hundred dollars (\$2,500), per violation.

(b) For purposes of this part, multiple violations of this part resulting from any single transaction or occurrence within a single county shall constitute one (1) violation.

(c) In an action brought under this part, a court may:

(1) For repeated violations, impose a civil penalty in an amount not to exceed seven thousand five hundred dollars (\$7,500); and

(2) Award reasonable attorney's fees and costs to a prevailing plaintiff.

(d) The remedies provided for in this section are not exclusive and this section does not preclude a person from seeking any other remedies, criminal or civil, that may be available under any other applicable law.

47-18-5604.

(a) A violation of this part constitutes an unfair or deceptive act in violation of the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter, and a person who violates this part is subject to the penalties and remedies as provided in the act in addition to the penalties and remedies prescribed by this part.

(b) If the division has reasonable cause to believe that any person has violated this part, the attorney general and reporter, at the request of the division, may bring an action under this part.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes this act shall take effect July 1, 2016, the public welfare requiring it.